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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 DAVID JERRY PAULE,

11 Defendant.

NO: 2:18-CR-227-RMP

ORDER HOLDING IN ABEYANCE  
DEFENDANT'S MOTION TO  
CONTINUE AND FOR MEDICAL  
TREATMENT

12  
13 BEFORE THE COURT is a Motion to Continue Hearing filed on January  
14 28, 2020, for follow up medical treatment of Mr. David Jerry Paule. In the motion,  
15 defense identifies a number of medical issues that Defendant seeks to have  
16 addressed. In addition, the Motion requests a continuance of the sentencing  
17 hearing currently scheduled for February 24, 2020, which will be addressed in a  
18 separate order, and a status hearing to review other medical issues.

19 Following the filing of the motion, defense counsel contacted Court  
20 personnel via email to alert the Court as to immediate health concerns. Defense  
21 counsel wrote:

ORDER HOLDING IN ABEYANCE DEFENDANT'S MOTION TO CONTINUE  
AND FOR MEDICAL TREATMENT~ 1

1 I am sorry to bother you, but I am concerned about Mr. Paule's  
2 health. The doctor at the prison has changed Mr. Paule's insulin to  
3 something called 70-30. It is not working for him, and his blood sugar  
4 is extremely high (300-500). He needs to be returned to the other  
5 medication called MPH. He submitted written complaints to the prison,  
6 but his complaints have been ignored. Please let me know if I should  
7 file another ex parte application regarding his medical  
8 condition. Thanks.

9 ECF No. 67.

10 It appears from the email that defense counsel now is seeking immediate  
11 medical assistance for Mr. Paule, intimating that Mr. Paule is suffering from  
12 extremely high sugar levels that would be better controlled by other medication.  
13 However, there is insufficient information presented to the Court on which the  
14 Court can make a reasonable decision regarding the urgency or proposed solutions  
15 to Mr. Paule's alleged medical crisis. For instance, there is no information  
16 regarding the history of Mr. Paule's sugar levels; what sugar levels would be  
17 viewed as life threatening; whether the local jail has access to "MPH," the  
18 medication that defense counsel claims would be beneficial to Mr. Paule; whether  
19 "MPH" has other contraindications that may prove problematic for the local jail to  
20 prescribe; etc.

21 Defense cites no authority to allow a district court to supersede the medical  
decisions involving an inmate's medical protocol. Nor is this Court inclined to  
insert itself into the local jail's decision making by ordering that specific  
medications be administered, especially without significantly more documentation

1 about the necessity and appropriateness of such medication. The appropriate  
2 remedy at this point would be for defense counsel to contact the local USMS  
3 immediately to request assistance in obtaining immediate medical care for Mr.  
4 Paule. The Court encourages the USMS to investigate defense counsel's concerns.

5 Accordingly, **IT IS HEREBY ORDERED:**

- 6 1. Mr. Paule's Motion to Continue, **ECF No. 63**, is **held in abeyance**.
- 7 2. By **February 11, 2020**, the Government shall **respond** to the Motion to  
8 Continue and shall also address any objection or agreement to holding a  
9 telephonic status conference on February 24, 2020, in lieu of sentencing.
- 10 3. Any reply from Defendant shall be filed by **February 14, 2020**.
- 11 4. The Court will hear Defendant's Motion to Continue, **ECF No. 63**,  
12 **without oral argument**, on **February 17, 2020**.

13 The District Court Clerk is directed to enter this Order and provide copies to  
14 counsel and to the USMS.

15 **DATED** February 4, 2020.

16  
17 *s/ Rosanna Malouf Peterson*  
18 ROSANNA MALOUF PETERSON  
19 United States District Judge  
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